



**Billing Code 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[Docket No. FWS–R1–ES–2018–0095; FXES11140100000–190–FF01E00000]**

**Draft Environmental Impact Statement and Draft Habitat Conservation Plan;  
Receipt of an Application for an Incidental Take Permit for Marbled Murrelets,  
Bald Eagles, and Golden Eagles; Skookumchuck Wind Energy Project, Lewis and  
Thurston Counties, Washington**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** In accordance with the Endangered Species Act (ESA) and the National Environmental Policy Act, we, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft habitat conservation plan (HCP) in support of an application from Skookumchuck Wind Energy Project, LLC, an affiliate of Renewable Energy Services (applicant), for an incidental take permit (ITP) for the marbled murrelet, listed as threatened under the ESA, and the bald eagle and golden eagle, both of which are

protected under the Bald and Golden Eagle Protection Act. Incidental take is expected to result from the operation of 38 commercial wind turbines and associated infrastructure located near Centralia, Washington, in Lewis and Thurston Counties. Also available for review is the Service's draft environmental impact statement (DEIS), which was prepared in response to the application. We are seeking public comments on the draft HCP and DEIS.

**DATES:** We will accept hardcopy comments received or postmarked on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Comments submitted online at <https://www.regulations.gov/> (see **ADDRESSES**) must be received by 11:59 p.m. Eastern Time on **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

*Public Meetings:* The Service will host two open house public meetings at the following times during the public comment and review period:

- Chehalis, WA: Wednesday, December 5, 2018, from 6 to 8 p.m.
- Lacey, WA: Monday, December 10, 2018, from 6 to 8 p.m.

**ADDRESSES: *Obtaining Documents for Review:*** The documents this notice announces, as well as any comments and other material that we receive, will be available for public inspection online in **Docket No. FWS-R1-ES-2018-0095** at <http://www.regulations.gov/>.

***Submitting Comments:*** You may submit comments by one of the following methods:

- *Online:* <http://www.regulations.gov>. Follow instructions for submitting comments on Docket No. FWS–R1–ES–2018–0095.
- *U.S. mail or hand-delivery:* U.S. Fish and Wildlife Service, c/o Tim Romanski, 510 Desmond Dr. SE, Suite 102, Lacey, WA 98503.
- *Public meetings:* You may also submit written comments during public meetings.

The meetings will be held at the following locations:

- 100 SW Veterans Way, Chehalis, WA 98532
- 4220 6th Avenue SE, Room 194, Lacey, WA 98503

We will post all comments on <http://www.regulations.gov>. This generally means that we will post online any personal information that you provide (see **Public Availability of Comments** under **SUPPLEMENTARY INFORMATION**). We request that you send comments by only the methods described above.

***Reviewing U.S. Environmental Protection Agency (EPA) comments on the draft HCP and DEIS:*** See EPA’s Role in the EIS Process under **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Tim Romanski, by telephone at 360–753–5823, or by email at [tim\\_romanski@fws.gov](mailto:tim_romanski@fws.gov). Hearing or speech impaired individuals may call the Federal Relay Service at 800–877–8339 for TTY assistance.

#### **SUPPLEMENTARY INFORMATION:**

The Service received an incidental take permit (ITP) application from the Skookumchuck Wind Energy Project, LLC (applicant) in accordance with the

requirements of the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant prepared a draft habitat conservation plan (HCP) in support of the ITP application and is seeking authorization for take of the marbled murrelet (*Brachyramphus marmoratus*), listed as threatened under the ESA, and the bald eagle (*Haliaeetus leucocephalus*) and golden eagle (*Aquila chrysaetos*), which are not listed species under the ESA but are protected by the Bald and Golden Eagle Protection Act (BGEPA; 16 U.S.C. 668–668d). Hereafter, the marbled murrelet, bald eagle, and golden eagle are collectively referred to as the “covered species.”

The ITP, if issued, would authorize incidental take of the covered species that may occur as a result of the operation and maintenance of the 38 commercial wind turbines over the 30-year permit term. This includes, without limitation, ITP coverage for covered species colliding with both stationary and operating project structures during the permit term. In contrast, the applicant does not seek ITP coverage for the construction phase of the wind project, which would include, without limitation, constructing roads and turbine pads, and erecting wind turbines. Nor does the applicant seek ITP coverage for the facility-decommissioning phase of the project. The applicant anticipates undertaking phased construction over a 9- to 12-month period beginning in mid-2019.

The draft HCP describes how impacts to covered species would be minimized and mitigated. The draft HCP also describes the covered species’ life history and ecology, as well as biological goals and objectives of the HCP, the estimated take and its potential impact on covered species’ populations, adaptive management, monitoring, and mitigation measures.

The Service prepared a draft environmental impact statement (DEIS) in response to the ITP application in accordance with the requirements of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). We are making the draft HCP and DEIS available for public review and comment.

## **Background**

Skookumchuck Wind Energy Project, LLC, intends to initiate construction of a wind turbine facility in 2019, and commence wind turbine operations as soon as possible. Detailed descriptions of the project are found in section 2.0 of the HCP. The majority of the wind project, including all of the 38 turbines, is located in Lewis County, Washington, with some supporting infrastructure located in Thurston County, Washington. The wind turbines are proposed to be constructed on a prominent ridgeline on the Weyerhaeuser Vail Tree Farm, approximately 18 miles east of Centralia, Washington.

The project consists of a maximum of 38 wind turbines, with an expected output of 137 megawatts (MW); a maximum wind turbine height of 492 feet (from ground to vertical blade tip); a maximum rotor diameter of 446 feet; approximately 36.5 miles of existing roads that will be upgraded; approximately 3.9 miles of new road that will be constructed; 17 miles of buried medium-voltage collection cable that will transport power to a substation along the ridgeline; and 15 miles of transmission line that will transport power to the Tono Substation.

The applicant has proposed a conservation program to avoid, minimize, and mitigate for impacts to covered species. Avoidance and minimization measures to

benefit the marbled murrelet include project design and planning efforts, and operational practices including seasonal curtailment of turbine blades, installation of transmission and distribution line flight diverters, shielding of artificial light sources, measures to reduce murrelet collisions with vehicles on the project site, and measures to prevent the artificial increase of potential nest predators in the project area. Mitigation measures intended to benefit the marbled murrelet include acquisition and management of conservation lands to promote the preservation and enhancement of suitable nesting habitat for the species, and funding the removal of abandoned or derelict fishing nets in the Salish Sea.

Avoidance and minimization measures to benefit the bald eagle and the golden eagle include project design and planning efforts, a mammal carrion reporting program to reduce scavenging by eagles on the project site, efforts that minimize creating cover for prey animals such as rabbits to reduce eagle use near the wind project, and 2 years of IdentiFlight® technology testing intended to reduce eagle collisions with operating turbine blades. Mitigation measures intended to benefit bald eagles and golden eagles consist of retrofitting power poles to reduce probability of collision and electrocution.

### **Proposed Action**

We propose to issue a 30-year permit for incidental take of marbled murrelet, bald eagle, and golden eagle if the Skookumchuck Wind Energy Project HCP meets all section 10(a)(1)(B) permit issuance criteria and, with respect to bald eagles and golden eagles, all BGEPA permit issuance criteria identified in 50 CFR 22.26 . The permit would authorize

take of each of the covered species incidental to the operation and maintenance of the wind energy project.

### **Endangered Species Act**

Section 9 of the ESA and its implementing regulations prohibit “take” of fish and wildlife species listed as endangered. The ESA implementing regulations extend, under certain circumstances, the prohibition of take to threatened species (50 CFR 17.31).

Under section 3 of the ESA, the term “take” means to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct” (16 U.S.C. 1538). Under section 10(a) of the ESA, the Service may issue permits to authorize incidental take of listed fish and wildlife species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Section 10(a)(1)(B) of the ESA contains provisions for issuing ITPs to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

1. The taking will be incidental;
2. The applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking;
3. The applicant will ensure that adequate funding for the plan will be provided;
4. The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and
5. The applicant will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the HCP.

## **Bald and Golden Eagle Protection Act**

Though the applicant is requesting incidental take for bald and golden eagles under section 10(a)(1)(B) of the ESA, consistency with the requirements of BGEPA (16 U.S.C. 668–668d) is also necessary. The BGEPA prohibits take of eagles where “take” is defined as “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb” and where “disturb” is further defined as “to agitate or bother” a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available: (1) injury to an eagle; (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior; or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior (50 CFR 22.3).

Under 50 CFR 22.26, the Service has the authority to authorize take of bald and golden eagles (generally, disturbance, injury, or killing) that occurs incidental to an otherwise lawful activity. For the Service to issue such a permit, the following required determinations must be met (see 50 CFR 22.26(f)):

1. The taking will be compatible with the preservation of the bald or golden eagle (further defined by the Service to mean “consistent with the goals of maintaining stable or increasing breeding populations in all eagle management units and the persistence of local populations throughout the geographic range of each species”);
2. The taking will protect an interest in a particular locality;
3. The taking will be associated with, but not the purpose of, the activity;



4. The taking will be avoided and minimized by the applicant to the extent practicable;
5. The applicant will have applied all appropriate and practical compensatory mitigation measures, when required pursuant to 50 CFR 22.26(c);
6. Issuance of the permit will not preclude issuance of another permit necessary to protect an interest of higher priority as set forth in 50 CFR 22.26(e)(7); and
7. Issuance of the permit will not interfere with ongoing civil or criminal action concerning unpermitted past eagle take at the project.

The Service can provide eagle take authorization through an ITP for an HCP, which confers take authorization under the BGEPA without the need for a separate permit, as long as the permit issuance criteria under both ESA and BGEPA will be met by the conservation measures included in the applicant's HCP. *See* 50 CFR 22.11(a).

### **National Environmental Policy Act**

In compliance with NEPA (42 U.S.C. 4321 *et seq.*), the Service prepared a DEIS, in which we analyze the proposed action and a reasonable range of alternatives to the proposed action. Four alternatives are analyzed in the DEIS.

- *No-action Alternative (Options A and B)*: No permit would be issued, and the applicant's HCP would not be implemented. The No Action consists of two options: Option A – No Project Operations and Option B – No Project. Option A assumes the applicant would construct the project before the Service makes a final permit decision, but would not operate the project without an ITP. Option A is included in the DEIS because the Applicant informed the Service that it may

initiate and complete construction before the Service makes a decision on the ITP application. Option B assumes that the applicant would not construct the project without an ITP. Under this option, nothing would change from current conditions and no impacts would result from the project.

- *The Proposed Alternative:* Issuance of the requested permit and implementation of the conservation program described in the applicant's HCP.
- *Alternative 2:* Under the Modified Project Site Design Alternative, the project would not operate the five wind turbine generators (WTGs) closest to documented marbled murrelet nest locations for the duration of the ITP. The Service would issue an ITP authorizing the level of incidental take expected to result from operation and maintenance of the remaining 33 WTGs.
- *Alternative 3:* Under the Enhanced Curtailment Alternative, all 38 WTGs would operate under an expanded set of curtailment measures intended to minimize the potential for take of the Covered Species. The Service would issue an ITP authorizing the level of incidental take expected to result from operation and maintenance of the project in accordance with the additional curtailment measures.

The environmental consequences of each alternative were analyzed to determine if significant environmental impacts would occur.

### **EPA's Role in the EIS Process**

The EPA is charged with reviewing all Federal agencies' EISs and commenting on the adequacy and acceptability of the environmental impacts of proposed actions in

EISs. Therefore, EPA is publishing a notice in the *Federal Register* announcing this EIS, as required under section 309 of the Clean Air Act. The publication date of EPA's notice of availability is the official beginning of the public comment period. EPA's notices are published on Fridays.

EPA serves as the repository (EIS database) for EISs prepared by Federal agencies. All EISs must be filed with EPA. You may search for EPA comments on EISs, along with EISs themselves, at <https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search>.

## **Public Comments**

You may submit your comments and materials by one of the methods in **ADDRESSES**. We will also accept written comments at the public meetings. We specifically request information on the following:

1. The identification and evaluation of archaeological and historic resources that the proposed project may affect;
2. The proposed adaptive management framework for marbled murrelets and for bald and golden eagles;
3. Potential impacts to the human environment that may occur during the construction or decommissioning phases of the project (e.g., through collisions with construction equipment, stationary wind turbines, or associated infrastructure);
4. Biological information and relevant data concerning the covered species and other wildlife;

5. Information on bald eagle, golden eagle, and marbled murrelet collisions with both stationary and moving objects such as wind turbines in the terrestrial environment, particularly in a forested environment;
6. Potential direct, indirect, and cumulative impacts that implementation of the proposed wind project and mitigation/minimization measures could have on the covered species; and other endangered or threatened species, and their associated ecological communities or habitats; and other aspects of the human environment;
7. Whether there are additional connected, similar, or reasonably foreseeable cumulative actions and their possible impacts on the human environment including, without limitation, marbled murrelet, bald eagle, and golden eagle, which were not identified in the DEIS;
8. Other possible reasonable alternatives to the proposed permit action that the Service should consider, including additional or alternative avoidance, minimization, and mitigation measures; and
9. Other information relevant to the proposed wind project and impacts to the human environment.

### **Public Availability of Comments**

We will post on <http://regulations.gov> all public comments and information received electronically or via hardcopy. Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying

information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

### **Reasonable Accommodations**

Persons needing reasonable accommodations in order to attend and participate in the public meetings should contact the Service's Washington Fish and Wildlife Office, using one of the methods listed in **ADDRESSES** as soon as possible. In order to allow sufficient time to process requests, please make contact no later than one week before the public meetings. Information regarding this proposed action is available in alternative formats upon request.

**Authority**

We provide this notice in accordance with the requirements of section 10 of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1501.7, 40 CFR 1506.5, 1506.6, and 1508.22).

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**Katherine B. Hollar,**

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U.S. Fish and Wildlife Service.*

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